

HANSON BRIDGETT MARCUS VLAHOS & RUDY, LLP  
KURT A. FRANKLIN - 172715  
SARAH D. MOTT - 148597  
425 Market Street, 26th Floor  
San Francisco, CA 94105  
Telephone: (415) 777-3200  
Facsimile: (415) 541-9366  
kfranklin@hansonbridgett.com  
smott@hansonbridgett.com

Attorneys for Defendants  
HARVEST REDWOOD RETIREMENT RESIDENCE,  
L.L.C., doing business as Redwood Retirement Residence,  
RETIREMENT RESIDENCE, L.L.C.; and HOLIDAY  
RETIREMENT CORP.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GREATER NAPA FAIR HOUSING  
CENTER, a California Not for Profit  
Corporation, doing business as FAIR  
HOUSING NAPA VALLEY, as an  
individual entity only; RUBY DUNCAN,  
an incompetent adult, by and through her  
Guardian Ad Litem, MAE LOUISE  
WHITAKER; and EVA NORTHERN, an  
incompetent adult, by and through her  
Guardian Ad Litem, NANCY  
NORTHERN, each individually and on  
behalf of individuals similarly situated;  
NANCY NORTHERN, in her individual  
capacity only; and MAE LOUISE  
WHITAKER, in her individual capacity  
only,

Plaintiffs,

v.

HARVEST REDWOOD RETIREMENT  
RESIDENCE, L.L.C., doing business as  
Redwood Retirement Residence;  
REDWOOD RETIREMENT RESIDENCE  
L.L.C.; and HOLIDAY RETIREMENT  
CORP.,

Defendants.

No. C 07 3652 PJH

**DECLARATION OF VANESSA BATTEN  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO MOTION FOR  
ISSUANCE OF PRELIMINARY  
INJUNCTION**

Date: September 26, 2007

Time: 9:00 a.m.

Dept: Ctrm. 3, 17th Fl.

Judge: Hon. Phyllis J. Hamilton

1 I, Vanessa Batten, hereby declare that I have personal knowledge of the facts set forth  
2 herein and, if called upon to testify, I would truthfully and competently testify to the following:

3 1. My husband and I became the resident managers at Redwood Retirement  
4 Residence ("Redwood" or "Residence") on May 4, 2007. My nickname is Misty.

5 2. At the time we arrived, there were two pending eviction notices. One was for  
6 Bernice Thornton, who has since moved out. The other was issued to Dorman "Pete" Mitchell.  
7 He remains a resident and we have rescinded his eviction notice because we were contacted by a  
8 person from the Veteran's Administration, who requested that we accommodate him and we were  
9 able to do so. We worked with the VA, which arranged for a care giver to come and assist Mr.  
10 Mitchell with his incontinence and bed sores. Mr. Mitchell also agreed to wear his earphones  
11 while watching television, which we were told he refused to do prior to that time. We have had  
12 no complaints from residents and we are happy to have him here.

13 3. Bernice Thornton needed 24-hour assistance seven days a week. Other than  
14 finding her occasionally wandering in the hallway, disoriented, she did not regularly come out of  
15 her room. I recall one social function she attended, Casino Night. She was being led around the  
16 room by her care giver. I was told by the sous chef that she wandered into the kitchen unclothed  
17 talking about apples. She received her meals on trays in her room. During the time we have been  
18 managers, she was never charged for a meal tray. Ms. Thornton still owes Redwood for her last  
19 month's rent.

20 4. On or about May 10, 2007, we received a letter from Kathryn Winter at Fair  
21 Housing Napa, who advised us that a sixty (60) day eviction notice was required for evictions in  
22 California rather than the thirty (30) day eviction notice that had been sent out by our  
23 predecessors. We immediately sent the letter to Regional Director Tom Ahrens. A sixty-day  
24 eviction notice later was issued for Ms. Thornton.

25 5. In June 2007, Redwood sales manager Adrian Rose told me he had noticed two  
26 young women in the hallway. One was pushing papers under residents' doors and the other was  
27 taking photos of her doing it. He told me he walked over to them and asked what they were  
28 doing. They refused to identify themselves. He told me he asked if they had checked in with the

1 resident managers and received permission to be on the premises. They said it was "ok," that they  
2 were done anyway and ran down the stairs and left the building. Later that day, several residents  
3 showed me copies of a letter dated June 15, 2007, from Stephen Cogswell of Fair Housing Napa  
4 Valley, along with a flyer from that organization, which had been pushed under their doors. No  
5 one from that agency ever requested permission to distribute material in the building.

6 6. We have not issued any other eviction notices. Our current residents are meeting  
7 the terms of their occupancy; i.e., they are capable of providing for their own health care or  
8 personal care needs, with or without a care giver, and do not create a danger to themselves or  
9 others. Accordingly, we have no intention of issuing any eviction notices to any residents.

10 7. Since we arrived at the Residence, we have not charged any residents for meal  
11 trays. I have been unable to locate any records that substantiate that Ruby Duncan was ever  
12 charged for a meal tray. She received a meal tray free of charge whenever she requested one.

13 8. At the time we took over as resident managers, a number of residents had walkers,  
14 canes, electric "mobies" and wheelchairs. We still have many residents who use walkers, canes,  
15 electric "mobies" and wheelchairs and they are able to live active, independent lives.

16 9. We have filled nine (9) units since April 2007. At least fifty percent (50%) of the  
17 new residents have walkers and canes. Several are in wheelchairs. All except one, a 62-year-old  
18 mentally handicapped man, are in their 80's or 90's. Some of them have Alzheimer's, according  
19 to their care givers. The "average" resident is a female of about 85 or 86 years of age who uses a  
20 cane or walker. One resident has been here 18 years; the average appears to be about six (6)  
21 years. Approximately a quarter of our residents have personal care givers who come to or live on  
22 the premises.

23 10. On or about July 19, 2007, I received a letter from Maria Esparza from Fair  
24 Housing Napa Valley, which on information and belief was sent to all Redwood residents, stating  
25 that it was investigating claims of discrimination against people with disabilities at the Residence.  
26 It asked residents to call her to "speak about [their] experience living at" Redwood. I did not  
27 contact Ms. Esparza nor in any way inquire into whether any residents chose to speak with her.

28 11. On August 20, 2007, I was pouring coffee in the dining room and was told by one

1 of the residents that she had received a telephone call that morning from someone from an agency  
2 who asked whether she had ever received an eviction notice. I did not follow up or ask any other  
3 residents if they had received similar telephone calls.

4 12. I have not made discriminatory statements relating to the disabilities of residents  
5 or prospective residents. We will reasonably accommodate residents' disabilities so long as they  
6 do not endanger themselves, others, or regularly interfere with other residents' right to enjoy and  
7 utilize their premises. I believe the elderly can maintain active independent lifestyles and  
8 regularly observe this even with persons that have severe disabilities, so long as they receive  
9 adequate care. My use of those terms in no way reflects any bias against persons with disabilities.

10 I declare under penalty of perjury under the laws of the State of California that the  
11 foregoing is true and correct. Executed this 4 day of September, 2007 at Napa,  
12 California.

13  
14 Vanessa Batten  
15 Vanessa Batten  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28